



INTERIOR BOARD OF INDIAN APPEALS

Estate of Hattie George Lewis

12 IBIA 160 (01/27/1984)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ESTATE OF HATTIE GEORGE LEWIS : Order Approving Settlement
: Agreement
:
: Docket Nos. IBIA 83-46
: IBIA 83-48
:
: January 27, 1984

On July 1, 1983, Administrative Law Judge Robert Snashall denied rehearing of his April 20, 1983, order in the estate of Hattie George Lewis (decedent), IP PO 53L-81. The case involved the determination of the validity of decedent's will. The Board of Indian Appeals (Board) received separate notices of appeal from this order on August 26, 1983, from Walter Lewis, who had opposed the will below, and on August 29, 1983, from Thomas and Dolores Lewis, who had supported the will.

The probate record was received on September 30, 1983. A briefing schedule was established by order of the same date. No briefs were filed. After the expiration of the time set for opening briefs, the Board was informed by telephone by counsel for one of the parties that settlement negotiations were being pursued. On December 7, 1983, the Board received a copy of a settlement agreement between the parties. The settlement papers 1/ indicated that they had been signed on July 20, 1983, prior to the filing of the appeal.

Departmental regulations at 43 CFR 4.207 provide for settlements in Indian probate proceedings. The Board has therefore reviewed the record in this case, the decision of the Administrative Law Judge, and the proposed settlement agreement. In accordance with the requirements of section 4.207, the Board finds that the parties were represented by counsel both in the proceedings before the Administrative Law Judge and in the settlement negotiations and that they apparently were advised of all the material facts and were fully cognizant of the effect of the settlement upon their legal rights. Furthermore, approval of the settlement as proposed appears to be in the best interests of the parties, as well as within the intent of the decedent.

1/ The Board notes in regard to the settlement papers that various provisions were edited or supplemented in handwriting, and then photocopied before signing. The copy of the agreement submitted to the Board is a photocopy of the agreement, including the handwritten changes, that was signed after photocopying. Pages other than the signature page were neither initialed nor signed. Although there is potential for the substitution of modified pages under such a procedure, there has been no suggestion by any of the parties that any such substitution was made here.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the proposed settlement agreement between Walter Lewis and Thomas and Dolores Lewis is approved. The Bureau of Indian Affairs is instructed to distribute decedent's trust estate in accordance with the April 20, 1983, final order of Administrative Law Judge Robert C. Snashall, except as modified between Walter Lewis and Thomas and Dolores Lewis by their July 20, 1983, settlement agreement, and except as to the sum of \$9,484.58 which should be retained pending the Board's completion of consideration of the requests for attorney fees in In re Attorney Fees Request of Joanne Foster, Docket No. IBIA 84-6-F, and In re Attorney Fees Request of P. J. Sferra, Docket No. IBIA 84-7-F. Distribution shall be according to the customary procedure of the Bureau of Indian Affairs.

//original signed

Bernard V. Parrette
Chief Administrative Judge

//original signed

Franklin D. Arness
Administrative Judge

//original signed

Jerry Muskrat
Administrative Judge